

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER,

Plaintiff,

v.

SHARON KRAUSE and MICHAEL  
DAVIDSON,

Defendants.

CASE NO. C11-5424 BHS

ORDER

This matter comes before the Court on the parties' notice of filing the videotaped transcript of witness DeAnne Spencer's November 16, 2013 testimony (Spencer Dep.) (Dkts. 219 and 232) and the objections and responses submitted therein. The Court has considered the objections and the responses and hereby sustains in part and overrules in part the objections to the deposition.

The Court observes that some of the testimony of DeAnne Spencer is not directly probative of what Sharon Krause knew, or had reason to know. In making its determinations, where appropriate, the Court applied the Fed. R. Evid. 403 balancing test. When the Court overruled an objection, although the answers might otherwise be deemed irrelevant, or only marginally relevant, it is because the questions and answers may offer insight into how one would evaluate DeAnne Spencer's demeanor and general credibility, a task that was part of Sharon Krause's responsibility as an investigator. Again, it is

1 important that limiting instructions are developed to make clear to the jury what the  
2 purposes of admitting certain testimony are and are not.

3 The objections to the Spencer Dep. delineated below are hereby sustained, unless  
4 the Court rules otherwise. Those objections not referenced below are overruled.

5 (1) 8:15 (after "Washington.")

6 (2) 9:13-24

7 (3) 11:25 – 12:4

8 (4) 14:3-7

9 (5) 17:24 – 18:1

10 (6) 18:14 – 19:4

11 (7) 20:3 – 21:22

12 (8) 25:21-25

13 (9) 33:22 – 35:12

14 (10) 37:13-21 – The objections to these lines are sustained, unless the  
15 testimony constitutes rebuttal to the same subjects from prior witness testimony.

16 (11) 39:4 – 40:12

17 (12) 40:20 – 41:6

18 (13) 42:25 – 43:2 and 5-14

19 (14) 45:6-21

20 (15) 51:14-23

21 (16) 53:17 – 56:6

22 (17) 60:14-18

(18) 60:22 – 61:4

(19) 62:11 – 63:18

(20) 65:10-20

(21) 67: 21 – 68:1

(22) 75:1 – 76:1

(23) 82:23- 83:1

(24) 85:14 – 86:3

(25) 92:9 – 94:3

(26) 95:21 – 98:15

(27) 99:12 – 101:10 (in line 10 only the word “Understandable” shall be

deleted from the deposition)

(28) 105: 22 – 108:5

(29) 119:7-16

(30) 124:1-10

(31) 127:10 – 128:18

(32) 144:9-17

(33) 160:23 – 161:1

It is so **ORDERED**.

Dated this 3rd day of January, 2014.



BENJAMIN H. SETTLE  
United States District Judge